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23 OCT 2007

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In re Application of
ROSEWICZ (Deceased)
Application No.: 10/593,533
PCT No.: PCT/EP05/03161
Int. Filing Date: 24 March 2005
Priority Date: 26 March 2004
Attorney Docket no.: 833.1005
For: USES OF GALECTIN-2

DECISION ON
REQUEST
UNDER 37 CFR 1.42

This is a decision on applicant's submission filed in the United States Patent and Trademark Office (USPTO) on 11 July 2007 and treated as a request under 37 CFR 1.42.

BACKGROUND

On 19 September 2006, applicant filed a transmittal letter requesting entry into the U.S. national stage for international application PCT/EP05/03161, along with an executed declaration to satisfy the requirements of 35 U.S.C. 371 that an oath or declaration of the inventors be furnished.. The declaration was signed by inventors Axel Dignass and Andreas Sturm and by the heir for deceased inventor Stefan Rosewicz and identified their respective country of citizenship, residency and mailing address.

On 16 April 2007, a decision was mailed to applicant indicating that the declaration was unacceptable and did not comply with 37 CFR 1.497 (a) and (b).

On 14 June 2007, applicant filed a "Response to Decision on Request under 37 CFR 1.42". On 25 June 2007, a decision was mailed indicating that the declaration did not satisfy 37 CFR 1.497(a) and (b).

DISCUSSION

37 CFR 1.497(a)(3) requires that the *declaration identify each inventor and the country of citizenship of each inventor*. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative (heir) of a deceased inventor, the oath or declaration must state that the person is a legal representative (heir) and indicate the citizenship, residency and mailing address of the legal representative (heir). The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration submitted on 11 July 2007 satisfies 37 CFR 1.497(a) and (b). The new declaration identifies all joint inventors, including the deceased inventor and the sole heir and provides the citizenship, residency and mailing address of the joint inventors, the deceased inventor and the sole heir. The sole heir is identified as such.

For the reasons stated above, a new declaration, executed by the sole heir, is compliance with 37 CFR 1.497 and 1.64. Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

It is noted that the declaration executed by the sole heir includes a Power of Attorney to the law firm of Pearl Cohen Zedek Latzer, LLP. This is insufficient to change the correspondence address for this application. See 37 CFR 1.33, which indicates that a change in the correspondence address can be made only by all applicants, not by only one applicant. A copy of this decision is being sent to the attorneys of record and to the attorneys who filed the petition to advise them that the correspondence address has not been changed.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is **11 July 2007**.



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